

*** NOT FOR PUBLICATION ***

NO. 26144

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

ROBERT PATEY, Petitioner-Appellant

vs.

PHILLIP CASCAVILLA, Respondent-Appellee

APPEAL FROM THE THIRD CIRCUIT COURT
(S.P. NO. 03-1-0014K)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of the record, it appears that the circuit court's September 15, 2003 order granting Robert Patey's petition in S.P. No. 03-1-0014K is not a collateral order affecting rights independent of, and separable from, the rights asserted in the main action, but is the order disposing of the main action to compel arbitration of the real estate transaction dispute. The September 15, 2003 order was not reduced to a separate judgment pursuant to HRCP 58. See Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994). Thus, this appeal is premature and we lack jurisdiction. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, January 30, 2004.